IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1321 OF 1993

1. Pasgonda Parisa Patil

2. Balasaheb Pirgonda Patil

3. Surgonda Adagonda Patil

4. Jinpal Adgonda Patil

All Adults, Occu: Agriculturist,
Residing at Village Bhendiwade,
Tal. Hatkanangale, Dist. Kolhapur ..Petitioners.

V/s.

1. Nijam Amin Pendhari since deceased through L.R.'s.

1a. Basuddin Nijam Pendhari.

1b. Tajuddin Nijam Pandhari

2. Babasaheb Hussain Pendhari

3. Khdbuddin Khadar Pendhari

4. Mhamulal Khadar Pendhari

All Adults, Occu: Agriculturist,
Residing at village Bhindewade,
Tal.Hatkanangle, Dist. Kolhapur. ..Respondents.

Mr.N.D. Hombalkar for petitioner.

None for respondents.

CORAM : R.V.MORE, J.

DATED : 18TH JUNE, 2007.

ORAL JUDGMENT

1. Heard Mr.Hombalkar, learned counsel for the

petitioner. None appears for the respondents. The petitioners are the original plaintiffs in Regular Civil Suit No.136/1990. The Civil Suit came to be filed for permanent injunction. In this suit, the petitioners / plaintiffs took out application Exhibit 5 for temporary injunction against the respondents. The trial Court namely the learned Civil Judge, J.D. Peth Vadgaon by its order dated 1st August, 1991 was pleased to allow the petitioners' application for temporary injunction at Exhibit 5 and the respondents / defendants or any person claiming through them were temporarily restrained from entering in the suit property and they also restrained them from taking their bullock cart from the suit property. The trial Court further directed the respondents / defendants not to damage the sugarcane crop of the petitioners' / plaintiffs.

2. The respondents / defendants challenged the order of the trial Court by filing Misc. Civil Appeal No.269 of 1991 in the Court of the III Additional District Judge, Kolhapur. The learned III Additional District Judge, Kolhapur by his order dated 10/12/1992 was pleased to allow the appeal of the Respondents and the trial Court's order below Exhibit 5 came to be set aside.

3. The petitioners / plaintiffs being aggrieved preferred the aforesaid writ petition under Article 227 of the Constitution of India. At the time of the admission, none appeared on behalf of the respondents / defendants in spite of service. The petition thereafter was admitted and interim injunction in terms of para 2 of the order passed by the trial Court on 1/8/1991 is granted.

4. The order passed by this Court on 6/4/1993 is in operation till today. Thus, the initial order of injunction in favour of the petitioners which was passed by the trial Court in the month of August, 1991 is in operation till today. Mr.Hombalkar, learned counsel for the petitioners expresses that he is not in a position to state whether the Regular Civil Suit No.136/1990 is pending or disposed of. The respondents are also not present in spite of due service. In the facts and circumstances, interest of justice will be served by directing the trial Court to dispose off the suit at earliest by maintaining status quo as of today. In view of above, I dispose off the petition by passing the following order.

i. The learned Civil Judge, J.D. Peth Vadgaon

is directed to dispose of the Regular Civil Suit No. 136/1990 as early as possible and in any case within a period of 6 months from the date of receipt of this order, if the same is not earlier disposed of.

ii. The trial Court shall dispose off the suit independently on its own merit and without being influenced by the order impugned in the petition or interim order passed in the petition.

iii. Interim order granted by this Court on 6/4/1993, as modified by order datedd 26/4/1993, to remain in force during the pendency of the suit, in case the suit is not disposed of.

iv. No order as to costs.

(R.V.MORE, J.)